

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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United States of America,

Case No. 20-cr-84 (MJD/TNL)

Plaintiff,

v.

**ORDER**

Samuel Charles Skelton, II,

Defendant.

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This matter comes before the Court on Defendant Samuel Charles Skelton, II's Motion for Continuance of Motion Hearing, ECF No. 48. Defendant has also filed a Statement of Facts in Support of Exclusion of Time Under the Speedy Trial Act, ECF No. 49. Defendant states that the parties have been engaged in negotiations regarding resolution of this matter and he needs additional time to consult with counsel. In e-mail correspondence with the Court, the Government has no objection to the requested extension.

As previously stated, beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.<sup>1</sup> *See, e.g.*, ECF No. 37. General Order No. 18, entered on August 27, 2020, vacates General

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<sup>1</sup> All General Orders related to the COVID-19 pandemic may be found on the Court's website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

Order No. 17, entered on June 26, 2020. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 18 (D. Minn. Aug. 27, 2020).

General Order No. 18 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. General Order No. 18 further provides that, if the defendant declines to consent to proceeding by videoconferencing or telephone conferencing, the matter can be continued until an in-person hearing can be held and time may be excluded under the Speedy Trial Act.

General Order No. 18, which is hereby incorporated by reference, was implemented based on: (1) the President declaring a national state of emergency in response to COVID-19; (2) the Governor of the State of Minnesota declaring a peacetime emergency to coordinate strategy to protect Minnesotans from COVID-19 and extending the COVID-19 peacetime emergency through September 11, 2020; (3) the Governor of the State of Minnesota issuing Emergency Executive Order 20-74, Continuing to Safely Reopen Minnesota's Economy and Ensure Safe Non-Work Activities during the COVID-19 Peacetime Emergency, which continues to place several restrictions on Minnesota residents; (4) the COVID-19 restrictions imposed by local detention facilities impacting the abilities of pretrial detainees to consult with legal counsel and appear in-person at a U.S. Courthouse; (5) the Bureau of Prisons' modified operations affecting inmate movement; and (6) the interests of the health of courtroom participants and court staff, the

constitutional rights of criminal defendants, the ability to conduct certain criminal proceedings via videoconference or telephone conference under the CARES Act, and the public's interest in and the Court's duty to ensure the effective and expeditious administration of justice. Specifically, General Order No. 18 states the following concerning the Speedy Trial Act:

Where appropriate, the presiding judge may enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act. The presiding judge may extend deadlines and exclude time under the Speedy Trial Act in cases even when certain proceedings are held using videoconferencing or telephone conferencing to address delays attributable to COVID-19.

The Court previously inquired whether Defendant consented to conducting the criminal motions hearing using videoconferencing. ECF No. 19. And, as stated in the Court's July 8, 2020 Order, ECF No. 31, Defendant has indicated through his attorney that he declines to consent to videoconferencing for the criminal motions hearing. *See* ECF No. 31; *see also* ECF Nos. 30, 37. Accordingly, consistent with the health and safety protocols of this Court and the facility in which Defendant is detained, the in-person criminal motions hearing will be continued to November 5, 2020.

Therefore, pursuant to 18 U.S.C. § 3161(h), the Court finds that the ends of justice served by granting such a continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide Defendant and his counsel reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Additionally, for the reasons addressed in General Order No. 18 and the well-documented concerns regarding COVID-19, the Court finds that, pursuant to

18 U.S.C. § 3161(h)(7)(A), the ends of justice served by granting the continuance outweigh the best interests of the public and Defendant in a speedy trial. The Court further finds that, pursuant to 18 U.S.C. § 3161(h)(7)(B)(i), a miscarriage of justice would result if time were not excluded under these unique circumstances.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion for Continuance of Motion Hearing, ECF No. 48, is **GRANTED**.

2. The period of time from **September 20 through November 5, 2020**, shall be excluded from Speedy Trial Act computations in this case.

3. The motions hearing before the undersigned is continued to **November 5, 2020, at 1:00 p.m., in Courtroom 3C, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, ST. PAUL, Minnesota**. D. Minn. LR 12.1(d).

4. **TRIAL:**

a. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT,**  
**the following trial and trial-related dates are:**

All voir dire questions and jury instructions must be submitted to District Judge Michael J. Davis on or before **November 16, 2020**.

This case must commence trial on **November 30, 2020**, at **9:00 a.m.** before Judge Davis in Courtroom 13E of the Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, **MINNEAPOLIS**, Minnesota.

- b. **IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Davis to confirm the new trial date.**

Date: September 21, 2020

s/ Tony N. Leung  
Tony N. Leung  
United States Magistrate Judge  
District of Minnesota

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